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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,808

10/11/2005

Bernhard Gleich

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

GUPTA, VANI

ART UNIT

PAPER NUMBER

3768

MAIL DATE

DELIVERY MODE

06/07/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/552,808	Applicant(s) GLEICH, BERNHARD	
	Examiner VANI GUPTA	Art Unit 3768	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Long V Le/
Supervisory Patent Examiner, Art Unit 3768

/Vani Gupta/
Examiner, Art Unit 3768

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. As stated in previous office action, the claim language does not specify that the ground terminal must be connected to the object of interest, but rather that it is APPLICABLE AND/OR fastenable to the object. Therefore, the claim language is broad enough to encompass either the connection of the ground terminal to the patient or the application of the ground terminal within the vicinity of the patient. Cited prior art suggests that the ground terminal is APPLICABLE to the patient, as the claim clearly states. It is applicable in the sense that is directing current away from the patient to avoid electrocution. Please refer to previous office action for more details. If Applicant intends that present invention is novel over prior art because the ground terminal can be directly connected to the patient and while avoiding electrocution of the patient, then Applicant should first note that this refers to functional language and/or intended use. Furthermore, the claims do not specifically state this. If this is what Applicant contends, then the claims should be amended to specifically say so, keeping in mind that the amended features are STRUCTURALLY limiting the present invention (apparatus).

As for the "transmit AND/OR receive unit comprising a voltage source," present Claim 1 indicates "at least one electrical transmit and/or receive unit (6), comprising at least one voltage generator." As the previous office actions states, Wang et al. suggests as much: depicted in Figure 1 and column 4, line 60 - column 5, line 55. Figure 1 of Wang et al. itself is the transmit/receive unit. Wang et al. indicates that a "number of electrical excitation SOURCES, such as currents or VOLTAGES (Fig. 1, 4) are APPLIED (hence transmitted) to one or more electrical contacts (2). See also col. 5, ll. 17 - 20. Hence, there is a component that transmits energy; and it comprises a voltage generator, since the component can transmit voltage energy.